

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION - DIVISION OF ADMINISTRATIVE SERVICES
SEPTEMBER 15, 2020**

ITEM 7

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION ADOPTING AN EMERGENCY REGULATION AMENDING WATER RIGHTS FEE SCHEDULES IN TITLE 23, SECTIONS 1032, 1041, 1044, 1062, 1063, 1064, 1066, 1069, AND 3833.1 OF THE CALIFORNIA CODE OF REGULATIONS.

DISCUSSION

Water Code section 1525 requires the State Water Resources Control Board (State Water Board) to adopt, by emergency regulation, a schedule of fees to recover the costs incurred in connection with the State Water Board's Water Rights Program. Water Code section 1525 further requires the State Water Board to adjust the fees annually to conform to the amounts appropriated by the Legislature. Water Code section 1551 requires that all water rights fee revenue be deposited in the Water Rights Fund (WRF). Similar provisions in Water Code section 13160.1 govern water quality certification fees. The current fee schedules were adopted on September 17, 2019.

Financial Condition of the Water Rights Fund

Total budgetary expenditures for FY 2020-21 are \$30.4 million. A prudent fund reserve of approximately 5-10 percent is typically targeted in order to absorb economic uncertainty and other contingencies. To cover expenditures and ensure a 5 percent reserve for FY 2020-21, staff is projecting a 6 percent fee increase would be required for all WRF fee payers for revenue to match expenditures.

Proposed Changes

For FY 2020-21, staff proposes to increase the annual Permit & License, as well as Pending Applications per acre-foot charge from \$0.085 to \$0.090 per each acre-foot greater than 10 acre-feet, with no change in the base fee. This increase conforms to the amounts appropriated by the Legislature, including generating sufficient revenue and maintaining a prudent reserve. Staff anticipates the need for an incremental fee increase next year to cover standard budgetary expenditure increases related to employee compensation, retirement and pro-rata expenditures.

Staff proposes to increase the caps on fees for water right applications and change petitions involving a transfer of water pursuant to Water Code section 382, 1435, 1701, 1725, or 1735 fees by 2.98 percent based on the California Consumer Price Index, increasing from \$553,919 to \$570,426.

Staff recommends the following fee changes for FY 2020-21:

- 5-Year Underground Storage Temporary Permit Filing Fee for Diversion to Underground Storage: Consists of an initial filing fee equivalent to the application filing fee for temporary (180 day) underground storage permits plus four renewal fees assuming no diversion in years 2 through 5. If there is a diversion in any of years 2 through 5, a supplemental fee of \$0.20 per acre foot of water actually diverted is due 30 days after the close of the diversion season in that year.
- California Department of Fish and Wildlife (CDFW) 5-Year Underground Storage Temporary Permit and 5-Year Temporary Change Petition Filing Fees: Due at the time of filing and in addition to the Division of Water Rights fees, if the amount of acre-feet requested is less than 10,000, \$3,000 plus \$0.10 per acre-foot, or if greater than or equal to 10,000 acre-feet, \$5,000 plus \$0.10 per acre-foot.
- Clean Water Act section 401 Certification for Federal Energy Regulatory Commission (FERC)-licensed projects: Increase the per kilowatt fee from \$0.50 to \$0.61 per kilowatt. For projects already licensed, increase the per kilowatt fee from \$0.25 to \$0.30 per kilowatt.
- Proof of Claim Fee: Increase from \$500 to \$1,000 for each person or entity that files one or more proof of claims that total less than 1,000 acre-feet per annum (AFA) or 1,000 acres of riparian land, or \$10,000 if equal to or greater than 1,000 AFA or 1,000 acres of riparian land.
- Edit the description of underground storage temporary permit renewal fee in CCR section 1062 to reflect a due date of within 30 days of permit expiration.
- Exempt Sustainable Groundwater Management Act (SGMA) extractors from reporting and paying fees to the State Water Board if the extractors already report metered data to a watermaster. Extractors would continue to submit reports and pay fees to the watermaster.
- Allow the State Water Board to waive SGMA annual filing fees if it is determined a fee waiver would advance the protection of groundwater resources and the fee payer meets specified low-income thresholds.

POLICY ISSUE

Should the State Water Board approve a resolution to adopt an emergency regulation to change the current water right fee schedules as proposed by staff?

FISCAL IMPACT

The FY 2020-21 Budget Act includes expenditure authority for the WRF of \$30.4 million. The proposed fee schedule changes will ensure the projected revenue for the WRF when added to the projected fund balance from FY 2019-20 meets the FY 2020-21 budget expenditure authority and maintains a prudent fund reserve of approximately 5 percent.

REGIONAL BOARD IMPACT

No.

STAFF RECOMMENDATION

That the State Water Board approves the resolution to adopt an emergency regulation to change the current water right fee schedules as proposed by staff.